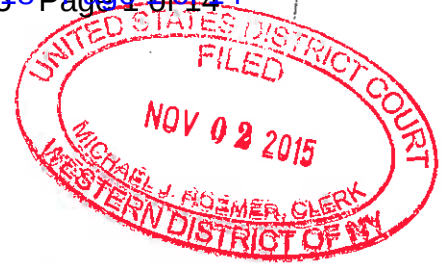


Revised 03/06 WDNY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**



**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**

15 CV 6676-L

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: *NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Andre Murphy 13-B-3408
2. _____

-VS-

B. Full Name(s) of Defendant(s) *NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

- | | |
|-----------------|----------------|
| 1. C.O. Nowicki | 4. C.O. Wilson |
| 2. C.O. Rejman | 5. _____ |
| 3. C.O. Reinard | 6. _____ |

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION *NOTE: To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Andre Murphy 13-B-3408

Present Place of Confinement & Address: great Meadow Correctional Facility
Box 51, Comstock, new York 12821

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: *To provide information about more defendants than there is room for here, use this format on another sheet of paper.*

Name of Defendant: C.O. Nowicki
 (If applicable) Official Position of Defendant: Correctional Officer
 (If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity
 Address of Defendant: Attica Correctional Facility, Exchange St.
Attica, New York 14011

Name of Defendant: C.O. rejman
 (If applicable) Official Position of Defendant: Correctional Officer
 (If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity
 Address of Defendant: Attica Correctional Facility, Exchange St.
Attica, New York 14011

Name of Defendant: C.O. Reinard
 (If applicable) Official Position of Defendant: Correctional Officer
 (If applicable) Defendant is Sued in X Individual and/or _____ Official Capacity
 Address of Defendant: Attica Correctional Facility, exchange st.
Attica, new york 14011

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes _____ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:
 Plaintiff(s): _____
 Defendant(s): _____
2. Court (if federal court, name the district; if state court, name the county): _____
3. Docket or Index Number: _____
4. Name of Judge to whom case was assigned: _____

DEFENDANT'S INFORMATION

Name of Defendant: C.O. Wilson

Official Position of Defendant: Correctional Officer

Address of Defendant: Attica Correctional Facility, Exchange St.
Attica, New York 14011

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

_____ Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes _____ No X

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to **42 U.S.C. § 1997e(a)**, "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) _____,

defendant (give the name and position held of each defendant involved in this incident) _____

C.O. nowicki, C.O. rejman, C.O. ~~Reinard~~ and C.O Wilson

did the following to me (briefly state what each defendant named above did): on the morning of February 25, 2015, i was being letfor the morning call-outs to attend my work program (hospial porter). On the way out of 27/28 stairway I was told to ~~step off~~ to the side by C.O. Nowicki and instructed to go back into the stairway.i was standing in the stairway longer than i expected, I than assumed he wanted me to go back to my cell. before i could i reach my cell i was instructed to come back to the bottom of the stairway where officer, see attched paper

The constitutional basis for this claim under 42 U.S.C. § 1983 is: is the Eighth Amendment, failure to protect and cruel & Unusual Punishment.

The relief I am seeking for this claim is (briefly state the relief sought): Compensatory Damages, in the amount of \$1,000,000 for each defendantfor a total of \$4,000,000.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? X Yes _____ No If yes, what was the result? _____
grievance was denied without merit.

Did you appeal that decision? X Yes _____ No If yes, what was the result? _____
CORG also denied Plaintiff grievance without merit.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) _____,

defendant (give the name and position held of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.


Compensatory damages in the amount of ~~\$~~ 1,000.000 for each defendant
for a total of ~~\$~~ 4,000.000.

Do you want a jury trial? Yes X No _____

First Complaint

Nowicki and many others were waiting in the C-Block corridor. When I reached the bottom of the stairs officer Nowicki approached me and I put my hands up indicating that I did not want any problems. Officer Nowicki then struck me on the left side of my face with his right fist. As officer Nowicki was attacking me, officers Rejman, Reinard, and Wilson joined into the attack, hitting me with closed fists and eventually I was pushed out of the stairway into the corridor. As I entered the corridor I was immediately hit with batons by officers Rejman, Reinard, and Wilson numerous times. As I was being attacked I felt blood running down my face that's when I dropped to the ground to cover myself up. Once I was subdued I was taken to the Facility hospital on the 1st floor where I was treated for my injuries. The injuries I was treated for were lacerations to the top of my skull as well as the top left side of my skull. The injuries I suffered at the hands of the officers required thirteen (13) staples to my skull. I was then escorted to SHU.

FORM 2133 (REV. 6/08)

 STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION INMATE GRIEVANCE PROGRAM	Grievance No. A-64378-15	Date Filed 2/27/14
	Facility Attica Correctional Facility	Policy Designation Institutional
	Title of Grievance ASSAULTED BY OFFICERS	Class Code 49
	Superintendent's Signature <i>B. K. [Signature]</i> FDS	Date 3/13/15
Grievant Murphy, A.	DIN 13-B-3408	Housing Unit RB-CE-08

Grievance is denied based upon information provided.

This grievance has been investigated by a Sergeant and includes an interview with the grievant, along with written memorandum from staff named.

The grievance states: ASSAULTED BY OFFICERS.

A Sergeant interviewed the grievant and he offered no witnesses or evidence to substantiate his claims.

Staff is on record denying all allegations. U.I. & U.O.F. included.

The investigating Sergeant could find no evidence to support the grievants' accusations. Force used was appropriate.

Based on the information provided, there is no evidence to substantiate the allegations of staff malfeasance made by the grievant. Therefore, the grievance is without merit and denied.

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. * Please state why you are appealing this decision to C.O.R.C.

Grievant's Signature


Date

Grievance Clerk's Signature

Date

A MURPHY 13B3908

26 JUN 2015

 NEW YORK STATE Corrections and Community Supervision ANDREW M. CUOMO <small>Governor</small> ANTHONY J. ANNUCCI <small>Acting Commissioner</small>	Grievance Number A-64378-15	Desig./Code I/49	Date Filed 2/27/15
	Associated Cases		Hearing Date 5/13/15
Facility Attica Correctional Facility			
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE		Title of Grievance Assaulted By Officers	

GRIEVANT'S REQUEST UNANIMOUSLY DENIED AS WITHOUT MERIT

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied as without merit. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that the grievant was involved in an appropriately documented Use of Force and Unusual Incident on 2/25/15 when he assaulted staff, and that he received prompt medical for lacerations to his head and superficial redness to his back. Further, Officers N..., Rei..., Rej... and W... deny assaulting the grievant. CORC also notes that the grievant's assault allegations are currently being investigated by the Office of Special Investigations (OSI), and advises him to address further concerns regarding this matter directly to OSI.

CORC notes that a disciplinary hearing may be appealed in accordance with 7 NYCRR, Chapter V, and that this appeal mechanism affords the opportunity to remedy any factual or procedural errors in a disciplinary report. The grievant's disposition is currently pending review at the Office of SHU/Inmate Discipline.

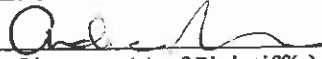
In regard to the grievant's appeal, CORC has not been presented with sufficient evidence of malfeasance by staff, and notes that he has since been transferred.

JNA/amb

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/28/15
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*


Signature(s) of Plaintiff(s)

VERIFICATION

STATE OF NEW YORK)
COUNTY OF WASHINGTON) ss.:

Andre Murphy, being duly sworn, deposes and says that deponent is the petitioner in the above captioned proceeding, that he has read the foregoing petition and knows the contents thereof, that the same is true to deponent's own knowledge, except as to matters therein stated upon information and belief, which matters deponent believes to be true.

Respectfully submitted

Andre Murphy
I.D. # 1383408
Great Meadow Correctional Facility
P.O. Box 51
Comstock, New York 12821

Sworn to before me on this

28th day of Oct, 20 15
[Signature]
Notary Public

PAT J SULLIVAN
Notary Public, State of New York
No. 01SU6316844
Qualified in Saratoga County
Commission Expires Dec. 22, 2018

Andre Murphy # 13-B-3408
Great Meadow Correctional Facility
Box 51
Comstock, New York 12821

October 28, 2015

US DISTRICT COURT
Western District Of New York
U.S. Courthouse, 2 Niagara Sq.
Buffalo, New York 14202



Attention: CLERK OF THE COURT,

Enclosed please find a 42 U.S.C. § 1983, petition, please forward to a Judge for consideration.

Your attention in this matter is greatly appreciated.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Andre Murphy", with a long horizontal flourish extending to the right.

Andre Murphy # 13-B-3408
Great Meadow Correctional Facility
Box 51
Comstock, New York 12821

CV rights

US DISTRICT COURT
Western District Of New York
U.S. Courthouse, 2 Niagara Sq.
Buffalo, New York 14202



LEGAL MAIL

Great Meadow



Correctional Facility

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Correctional Facility



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